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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,013	08/16/2006	Sascha Kruger	PHDE040047US	9262
38107	7590	02/03/2009	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			PATIDAR, JAY M	
595 MINER ROAD				
CLEVELAND, OH 44143			ART UNIT	PAPER NUMBER
			2862	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/598,013	KRUGER ET AL.
	Examiner	Art Unit
	JAY M. PATIDAR	2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 October 2008.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4 and 6-10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-4,6,7 and 9 is/are rejected.
 7) Claim(s) 8 and 10 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 16 August 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/16/06</u> . | 6) <input type="checkbox"/> Other: _____ . |

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

2. The disclosure is objected to because of the following informalities: The reference to claims (e.g. to claims 1,5 and 6 at lines 21-22 on page 1 of the specification) should be deleted.

Appropriate correction is required.

3. Claims 3-4,6-7 are objected to because of the following informalities:

In claims 3,6, the term “and/or” is positively recited; Perhaps applicant intends to use either “and” or “or”;

In claims 4,7, there is no antecedent basis for “uncorrected determined position”.

Appropriate correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferre et al. (6,175,756).

Ferre discloses a magnetic localization device with a magnetic field generator (col. 2, lines 27-31; fig. 1; col. 9, lines 35-36; fig. 23) for generating a magnetic field; a field sensor (col. 5, lines 3-20; 40 in fig. 5; col. 9, lines 35-36; fig. 23) for measuring the magnetic field; a reference sensor (col. 4, lines 39-42; col. 10, lines 35-38; fig. 3) for measuring the magnetic field at a known reference position; and a control unit (22 in fig. 1), which is arranged for determining the position of the field sensor relative to the field generator and thereby for compensating external field distortions by taking the reference sensor into consideration (col. 5, lines 17-24).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4,7,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferre in view of AAPA (Applicant's admitted prior art).

Ferre discloses a magnetic localization device as explained above. Ferre fails to show the sensor and generator being fastened to the gantry of a computer tomography. The use of a magnetic localization device with the gantry is known in the art as shown by AAPA. The control unit e.g. a processor that normally contains memory and calibrating the device for position are known in the art for its use. Consequently, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Ferre to use it for the gantry as taught by AAPA to determine the position of the instruments.

6. Claims 8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to show the correction function for support points in a volume of interest empirically determined and extended by extrapolation or interpolation respectively on the whole volume (claim 8) and the parameter being the angle of rotation of a computer tomography situated in the vicinity of the localization device (claim 10).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAY M. PATIDAR whose telephone number is (571)272-2265. The examiner can normally be reached on M-Thur 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assoud can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Jay M. Patidar/
Primary Examiner
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